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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,045	08/31/2001	Masahiro Sasaki	188-88	7829
28249 7590 02/07/2007 DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. SUITE 702 UNIONDALE, NY 11553			EXAMINER YU, MISOOK	
			ART UNIT 1642	PAPER NUMBER
			MAIL DATE 02/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/936,045	<b>Applicant(s)</b> SASAKI ET AL.	
	<b>Examiner</b> MISOOK YU, Ph.D.	<b>Art Unit</b> 1642	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☒ The Notice of Appeal was filed on 16 November 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): none.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☒ Other: The Sulfates Class.

  
MISOOK YU, Ph.D.  
Primary Examiner  
Art Unit: 1642

Continuation of 11. does NOT place the application in condition for allowance because: The art rejection of record, applicant argues that aluminum sulfate is not mineral mixture because it is a known poison, which caused at least two known deaths, and as the attached MSDS suggests, it causes harmful effect to humans. This argument has been fully considered but found unpersuasive because the instant specification at page 7 third full paragraph says that "arsenic" is mineral. It might be correct guess to say that arsenic has killed more people than alum. The reference "The Sulfates Class" cited in 892 in the Office action mailed on 7/12/2006 is scanned in IFW. Applicant can view the document using PAIR. For applicant's convenience, the reference is included with this Action.

As for new matter rejection and enablement, applicant argues that the adequate support is in the specification as originally filed at page 9 that the molecular weight of the unhydrolyzed sericin protein is 100,000 daltons and the composition of the present invention may contain unhydrolyzed sericin protein, hydrolyzed sericin protein, which by definition must weight less than the unhydrolyzed protein, and mixtures thereof. These arguments have been fully considered. However, the specification as originally filed has support for making sericin of an average molecular weight of either 100,000 (see the last sentence of Preparation Example 1 at page 9), or 20,000 (see the last sentence of Preparation Example 2 at page 9) with 90% purity or higher. The new limitation "of less than or equal to 100,000 daltons" are ranges from 1-100,000 daltons.

Applicant argues that the claims are amended to say "an average molecular weight of less or equal to 100,000 daltons", and hydrolyzed fragment of 100,000 daltons sericin would have an average molecular weight of less or equal to 100,000 daltons.

This argument has been fully considered but found unpersuasive because the base claim is drawn to a functional oral preparation with a purity of 90% or higher. It is not clear how one of skill could make a functional oral preparation at any one of an average molecular weight of less or equal to 100,000 daltons, for example 30,000 daltons with a purity 90% or higher.

As stated before, Teramoto et al., (2005, Biosci. Biotechnol. Biochem., vol. 69, pages 845-847) at page 845, left column teach that three kinds of sericins exist: one greater than 250 kDa, about 180 kDa, and about 100 kDa. Takasu et al., (2002, Biosci. Biotechnol. Biochem., vol. 66, pages 2715-2718) at page 2716 teach at Table 1 several different sizes of sericin, but none has molecular weight of 20,000. In addition, Takasu et al. teach at page 2715, right column, first full paragraph "no effective separations of sericins was established", at the time of the publication, which is 2002, two years after the effective filing date of the instant application.

# The Sulfates Class

Included in this class are various subclasses: the Sulfites, the Chromates, the Molybdenates, the Selenates and Selenites, the Tellurates and Tellurites and the Tungstates.

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## MINERALS

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### By Name

A list of minerals in alphabetical order

### By Class

Elements, Oxides, Carbonates, etc.

### Interesting Groupings

Gemstones, Birthstones, etc.

### Full Text Search

Mineral identification by keyword searching

### Physical Properties

Keys to identifying minerals

The Sulfates are an important mineral class and include some very interesting and attractive specimens. Although many minerals belong to this class only barite, gypsum, and anhydrite can be considered common. The basic chemical unit is the (AO<sub>4</sub>) complex anion with a charge of negative two (-2). The sulfites, selenites and tellurites (notice the spelling) have a basic unit of (AO<sub>3</sub>) The A can be either sulfur (S), chromium (Cr), tungsten (W), selenium (Se), tellurium (Te) and/or molybdenum (Mo). The principle anion group never shares oxygens with other principle anion groups and this limits the structural possibilities. The A atom at the center of the AO<sub>4</sub> anion has a positive six charge (+6) and the oxygens have their obligatory negative two charge (-2). The AO<sub>4</sub> anions form symmetrical tetrahedrons when A is either sulfur or chromium and flattened tetrahedrons when A is either molybdenum, selenium or tungsten. The flattened tetrahedrons form a square outline and help produce (in most of those minerals) a tetragonal (four fold) symmetry, which is an uncommon symmetry in minerals. The typical Sulfate Class mineral is vitreous, average to above average in density, average in hardness and are originally formed in veins, oxidation zones, contact metamorphic zones and in evaporite deposits. Some Sulfate Class minerals are soluble and several are fluorescent. All other properties are variable.

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## **Subclass: Sulfates**

- *Aluminite (Hydrated Aluminum Sulfate Hydroxide)*

- **The Alunite Group:**

- The Alunite Subgroup:**

- Alunite (*Potassium Aluminum Sulfate Hydroxide*)
    - Ammonioalunite (*Ammonium Aluminum Sulfate Hydroxide*)
    - Huangite (*Calcium Aluminum Sulfate Oxide Hydroxide*)
    - Minamiite (*Sodium Calcium Potassium Aluminum Sulfate Hydroxide*)
    - Natroalunite (*Sodium Aluminum Sulfate Hydroxide*)
    - Osarizawaite (*Lead Copper Aluminum Sulfate Hydroxide*)
    - Walthierite (*Barium Aluminum Sulfate Oxide Hydroxide*)

- The Jarosite Subgroup:**

- Ammoniojarosite (*Ammonium Iron Sulfate Hydroxide*)
    - Argentojarosite (*Silver Iron Sulfate Hydroxide*)
    - Beaverite (*Lead Copper Iron Aluminum Sulfate Hydroxide*)
    - Dorallcharite (*Thallium Potassium Iron Sulfate Hydroxide*)
    - Hydroniumjarosite (*Hydronium Iron Sulfate Hydroxide*)
    - Jarosite (*Potassium Iron Sulfate Hydroxide*)
    - Natrojarosite (*Sodium Iron Sulfate Hydroxide*)
    - Plumbojarosite (*Lead Iron Sulfate Hydroxide*)